

BEFORE THE ZONING HEARING BOARD

TOWNSHIP OF EAST LAMPETER

IN RE: :
: No. 2024-17
APPLICATION OF MELVIN ESCOBAR :

DECISION

I. FINDINGS OF FACT

1. Applicant is Melvin Escobar, 132 Eastbrook Road, Smoketown, Pennsylvania 17576 ("Applicant").

2. The property which is the subject of the instant application is 132 Eastbrook Road, East Lampeter Township, Lancaster County, Pennsylvania (the "Property").

3. The Property is located in the Medium Density Residential (R-2) District as shown on the Official Zoning Map of East Lampeter Township.

4. Applicant is the owner of the Property.

5. Notice of the hearing on the within application was duly advertised and posted in accordance with the provisions of the Pennsylvania Municipalities Planning Code ("MPC") and the East Lampeter Zoning Ordinance of 2016 (the "Zoning Ordinance").

6. A public hearing was held before the Zoning Hearing Board of East Lampeter Township ("Board") on this application on October 10, 2024.

7. Testimony at the hearing was stenographically recorded.

8. Applicant appeared personally at the hearing.

9. Applicant has requested a special exception pursuant to Section 6020.C.13 of the Zoning Ordinance.

10. Section 6020.C.13 of the Zoning Ordinance states that tourist homes, as a principal or accessory use within a single family detached dwelling, are permitted in the Medium Density Residential (R-2) District by special exception, subject to the provisions set forth in Section 23110 of the Zoning Ordinance.

11. The Property was the subject of a previous zoning hearing and the Board takes administrative notice of its Decision in Case No. 2023-08.

12. In Case No. 2023-08, the Board denied Applicant's request for a special exception pursuant to Section 6020.C.13 of the Zoning Ordinance for a tourist home. The request was denied because the dwelling located on the Property was not a single family detached dwelling, but rather a two-unit dwelling.

13. Applicant now testifies that he will convert the existing two-unit dwelling back into a single family dwelling. Without limiting the foregoing, Applicant will remove the entire kitchen and cooking facilities located on the second floor, and will remove walls such that the dwelling will be converted to a single family dwelling.

14. The Property contains approximately 1.02 acres.

15. The dwelling contains complete sanitary sewage disposal services, bathing facilities, a central kitchen and five (5) bedrooms.

16. The dwelling is served by public sanitary sewer service and on-lot well water.

17. Applicant testified that not more than ten guests would occupy the tourist home at any one time.

18. Applicant testified that, with regard to the proposed tourist home, the length of stay for any guest will not exceed thirty (30) days.

19. Applicant will provide proof to the Township that all plumbing, heating, electrical, sanitary sewage disposal, water supply, storm sewer and similar facilities associated with the Property and the dwelling comply with applicable code requirements.

20. Applicant will develop, and provide to the Township, an emergency management plan in the event of a catastrophic event resulting from flooding, fire, snow, ice, earthquake, utility outage, or other catastrophic event.

21. There is adequate parking located on the Property for the proposed use.

22. With conditions, the tourist home use complies with the requirements of Section 25070 of the Zoning Ordinance and, without limiting the foregoing, will not adversely affect the general character of the neighborhood or the general health, safety and

welfare of residents or property owners within the general neighborhood.

II. CONCLUSIONS OF LAW

1. "[T]o be entitled to a special exception, an applicant must bring the proposal within the specific requirements in the zoning ordinance." *Act I, Inc. v. Zoning Hearing Board of Bushkill Township*, 704 A.2d 732, 735 (Pa. Cmwlth. 1997).

2. An applicant for a special exception has the burden of persuasion as to the specific criteria and standards of the zoning ordinance. *Shamah v. Hellam Township Zoning Hearing Board*, 648 A.2d 1299 (Pa. Cmwlth. 1994); *Abbey v. Zoning Hearing Board of the Borough of East Stroudsburg*, 126 Pa. Commonwealth Ct. 235, 559 A.2d 107 (1989).

3. A special exception is a conditionally permitted use, allowed by the legislature if specifically listed standards are met.

4. With conditions, Applicant has presented evidence to demonstrate that he has met the requirements for the issuance of a special exception under Section 6020.C.13 and Section 23110 of the Zoning Ordinance.

5. Conditions must be attached to the grant of the special exception to protect and preserve the surrounding neighborhood.

III. DECISION

Based upon the foregoing findings of fact and conclusions of law, the Zoning Hearing Board of the Township of East Lampeter hereby grants the application of Melvin Escobar for a special exception pursuant to Section 6020.C.13 and Section 23110 of the Zoning Ordinance to operate a tourist home on property known and numbered as 132 Eastbrook Road, Lancaster, Pennsylvania. The special exception granted herein shall be subject to the following conditions and safeguards which the Board deems necessary to implement the purposes of the Zoning Ordinance and the MPC:

1. Applicant shall obtain all approvals and permits required by applicable federal, state and Township laws and regulations.

2. Applicant shall at all times comply with and adhere to the information and representations submitted with and contained in his application and the evidence presented to the Board at the hearing held on October 10, 2024.

3. Applicant shall provide proof to the Township that all plumbing, heating, electrical, sanitary sewage disposal, water supply, storm sewer and similar facilities associated with the Property and the dwelling comply with applicable code requirements.

4. Applicant shall develop, and provide to the Township, an emergency management plan in the event of a catastrophic event resulting from flooding, fire, snow, ice, earthquake, utility outage, or other catastrophic event.

5. Any violation of the conditions contained in this Decision shall be considered a violation of the Zoning Ordinance and shall be subject to the penalties and remedies contained in the Pennsylvania Municipalities Planning Code.

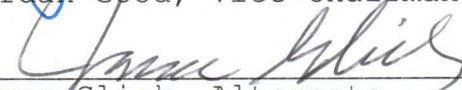
6. The approval granted by this Decision shall expire in accordance with the terms of Section 25070 of the Zoning Ordinance.

7. The foregoing Decision shall be binding upon the Applicant and his heirs and assigns.

ZONING HEARING BOARD OF THE
TOWNSHIP OF EAST LAMPETER



Jordan Good, Vice-Chairman



James Glick, Alternate

Dated and filed October 29, 2024, after hearing held on October 10, 2024.

The undersigned certifies that a copy of this Decision was served upon all parties on or prior to October 30, 2024.

